# Courts react to better economy

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One of the strange observations I've made over the years is that the courts seem influenced in their decision making by the state of the economy. If a case is heard when the economy is down, chances of the taxpayer winning seem to be improved. If the economy is bounding along, taxpayers seem to have a harder time winning.

Note that this is a general subjective observation. No taxpayer can hope to win a case that is an obvious loser, and the decisions are made by judges who would surely argue that they aren't thinking about the economy when making decisions. The difference is in the subtle close calls. And the pendulum appears to be swinging against the taxpayer in recent close cases. Here are a few examples.

The taxpayer, a construction worker, drove 60 miles from home to his job site. He deducted his work shoes and his mileage on his tax return. The court allowed the shoes but disallowed the mileage on the basis that he did not leave the metropolitan area and drove home every night. Taxpayers have won mileage when they travel from one city to another even upon returning home at night. Furthermore, they have won when they were required to take their tools with them to the job site. So the decision here rests on what is considered a local area. For example, a 50-mile range is actually stated in the law as one of the conditions necessary for the deduction of moving expenses. How local is 60 miles?

Another interesting result was reached in a divorce case. Here the taxpayer had agreed to pay alimony (deductible) to his ex-wife. He subsequently stopped paying her (no reason was given), so she took him to court and won a judgment that the amount was owed to her. He then began making up the payments and deducted them on his income tax return. The court decided that the judgment changed the nature of the alimony payments so that they were no longer deductible. The court reasoned that the payments had been converted to a fixed liability which would be due even upon death. Since one of the requirements of deductible alimony is that the alimony ceases upon death, these payments had become non-deductible. Of course, the taxpayer had not died, and the judge in the alimony case most likely just wanted him to pay what he'd promised to pay, but the court found a way for the IRS to win.

The last case of interest concerns a boy who was a foster child. He and his foster "mother" had become very close over the years, and he continued to live with her after his 18th birthday when the foster relationship legally ended. Complications set in when he fathered a daughter who joined the household. The "mother-now-grandmother" took her in and deducted her as a dependent on her tax return. The IRS successfully argued that the daughter was not legally bound over to the "mother," was not the daughter of a legally qualified relation and was therefore not a legal dependent. The court could have easily helped the "mother" by pointing out that the daughter qualified as a dependent because she lived in the household for the period in question. However, the "mother's" representatives didn't make that argument, so the court wouldn't make it for her.

These cases all have a feeling that the courts are trying to help the IRS win a close case. That may not be, but it just seems better to try your case when times are bad rather than when times are getting better.

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